

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
ABERDEEN DIVISION

WILL McRANEY

PLAINTIFF

VS.

CIVIL ACTION NO.: 1:17cv080-GHD-DAS

THE NORTH AMERICAN MISSION BOARD
OF THE SOUTHERN BAPTIST CONVENTION, INC.

DEFENDANT

NOTICE OF REMOVAL

PLEASE TAKE NOTICE that Defendant The North American Mission Board of the Southern Baptist Convention, Inc. (“NAMB”) hereby removes this action pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, and gives notice of the removal of this action from the Circuit Court of Winston County, Mississippi, to the United States District Court for the Northern District of Mississippi, Aberdeen Division. As grounds for this removal, Defendant states as follows:

1. NAMB is a named defendant in an action commenced on or about April 7, 2017, in the Circuit Court of Winston County, Mississippi, captioned *Will McRaney v. The North American Mission Board of the Southern Baptist Convention, Inc.*; Cause No. 2017-082-CVL (the “State Court Action”).
2. Pursuant to 28 U.S.C. § 1446(a) and Local Uniform Civil Rule 5(b), a certified copy of the state court record will be filed within 14 days of the date of removal.
3. Plaintiff served NAMB with his Summons and Complaint via personal service on or about April 19, 2017. This notice of removal is, therefore, timely filed within thirty (30) days of receipt of the pleading from which NAMB could ascertain that the case is properly removable in accordance with 28 U.S.C. § 1446(b).

4. The United States District Court for the Northern District of Mississippi, Aberdeen Division, embraces the county in which the State Court Action is now pending. Therefore, removal to this Court is proper pursuant to 28 U.S.C. §§ 104(b)(1) and 1441(a).

5. No previous application has been made for the relief requested herein.

6. Pursuant to 28 U.S.C. § 1446(d), all adverse parties are being provided with a written Notice of Removal, and a copy of this Notice of Removal is being filed with the Clerk of the Circuit Court of Winston County, Mississippi.

Removal is Proper Based on Diversity Jurisdiction

7. A district court has subject-matter jurisdiction pursuant to 28 U.S.C. § 1332 if the citizenship of each plaintiff is diverse from the citizenship of each defendant and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs. Citizenship of the parties is determined as of the time the Complaint is filed. *See Oatis v. Wal-Mart Stores, Inc.*, Civ. A. No. 2:13-CV-162-KS-MTP, 2013 U.S. Dist. LEXIS 154842, 3 (S.D. Miss. Oct. 29, 2013) (citing *Grupo Dataflux v. Atlas Global Group, L.P.*, 541 U.S. 567, 571 (2004)).

8. Diversity of citizenship exists on the face of the Complaint. According to the Complaint, Plaintiff is an adult resident citizen of the State of Florida. Compl. ¶ I. Thus, Plaintiff is a citizen of the State of Florida for purposes of diversity of citizenship.

9. NAMB is, and was at the time of the filing of this lawsuit, a non-profit Georgia corporation with its principal place of business in the State of Georgia. Compl. ¶ II. Thus, NAMB is a citizen of the State of Georgia for purposes of diversity of citizenship.

10. As the matter in controversy at the time of commencement of this action was, and continues to be, between citizens of different states, there is complete diversity of citizenship between Plaintiff and Defendant.

11. Removal based on diversity jurisdiction also requires that the amount in controversy exceed \$75,000.00. 28 U.S.C. § 1332(a). The defendant may either show the Court that it is facially apparent from the complaint that the amount in controversy exceeds the jurisdictional minimum or, if not facially apparent, set forth facts supporting the requisite finding. *See Archie v. John St. John & Schneider Nat'l Bulk Carriers, Inc.*, Civ. A. No. 1:12CV141-LG-JMR, 2012 U.S. Dist. LEXIS 99478, 4 (S.D. Miss. July 18, 2012) (citing *Garcia v. Koch Oil Co. of Tex.*, 351 F.3d 639, 639 (5th Cir. 2003)).

12. It is facially apparent from the Complaint that the amount in controversy exceeds \$75,000.00 because Plaintiff seeks punitive damages, *see* Compl. at 7, and “[f]ederal courts in Mississippi have consistently held that a claim for an unspecified amount of punitive damages is deemed to exceed the federal jurisdictional minimum.” *Sun Life Assur. Co. v. Fairley*, 485 F. Supp. 2d 731, 735 (S.D. Miss. 2007). As such, even without the claims for actual and compensatory damages, Plaintiff’s claim for punitive damages in and of itself establishes the requisite amount in controversy.

13. Accordingly, this action is a “civil action brought in a State court of which the district courts of the United States have original jurisdiction” pursuant to 28 U.S.C. § 1441(a), and is properly removable to this Court as a “civil action[] where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between . . . Citizens of different States” within the meaning of 28 U.S.C. § 1332(a).

14. Nothing in this Notice of Removal shall be interpreted as a waiver or relinquishment of Defendant’s right to assert any defense or affirmative matter available under Mississippi or Federal Rule of Civil Procedure 12, or any state or federal statute.

WHEREFORE, PREMISES CONSIDERED, Defendant The North American Mission Board of the Southern Baptist Convention, Inc. files this Notice of Removal and removes this

civil action from the Circuit Court of Winston County, Mississippi, to the United States District Court for the Northern District of Mississippi, Aberdeen Division. Plaintiff is hereby notified to proceed no further in state court.

This the 18th day of May, 2017.

Respectfully submitted,

By: s/ Kathleen Ingram Carrington
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Counsel for Defendant The North American Mission Board of the Southern Baptist Convention, Inc.

CERTIFICATE OF SERVICE

I, Kathleen Ingram Carrington, one of the attorneys for Defendant The North American Mission Board of the Southern Baptist Convention, Inc., do hereby certify that I have this day served a true and correct copy of the foregoing Notice of Removal by mailing a copy of same via First Class U.S. mail, postage prepaid, upon the following:

W. Harvey Barton, Esq.
BARTON LAW FIRM, PLLC
3007 Magnolia Street
Pascagoula, MS 39567

Counsel for Plaintiff

SO CERTIFIED, this the 18th day of May, 2017.

s/ Kathleen Ingram Carrington
KATHLEEN INGRAM CARRINGTON

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